IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1520 OF 2006

Gita Kisan Gore ..Applicant
Vs.
State of Maharashtra and ors. ..Respondents

Mr. S.D. Ghag for the applicant.
Mr. D.R. More, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : August 14, 2007.

P.C.:

1. Heard Mr. Ghag the learned counsel for the applicant.

2. Rule. Mr. More the learned APP waives service for the respondents.

3. The applicant has contested the election of Corporator of Municipal Corporation of Greater Mumbai held in the year 2002 and she was declared elected from the reserved ward of women OBC (Ward No.108) and subsequently her caste claim was invalidated by the Competent Scrutiny Committee. The said order of invalidating the caste claim received its finality.

Consequently, two separate criminal cases were launched against the applicant. Shri Tukaram Daulat Naik, the Election Officer for the Mumbai Municipal Corporation Elections registered C.R. No.134 of 2003 with the D.N. Nagar Police Station and based on that the applicant was arrested on 5/5/2003. On filing of the charge-sheet, the case came to be registered as C.C. No.344/P/2003 and is presently pending before the learned Metropolitan Magistrate, 48th Court at Andheri, Mumbai. Simultaneously, on 10/3/2003 one Shri Rajendra Digamber Mehulkar also filed a complaint, registered as C.R. No.32 of 2003 with the Alibag Police Station and the applicant came to be arrested therein on 2/5/2003 and was subsequently released on bail. On filing of the charge-sheet the case has been registered as C.C. No.193 of 2003 and is presently pending before the learned Chief Judicial Magistrate, First Class, Alibag. The applicant, therefore, prays for transfer of the said case to the court of learned Metropolitan Magistrate, 48th Court at Andheri.

4. There is no dispute that both the complaints are arising from the common cause of action i.e. the

false case claim of the applicant and the said offence is punishable under the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulations of Issuance and Verification of) Caste Certificate Act, 2000. It would be in the interest of both the parties that the two different cases are clubbed and heard together.

5. Hence the application is allowed and Criminal Case No.193 of 2003 (arising out of C.R. No.32 of 2003 registered with Alibag Police Station) presently pending before the Court of the learned Chief Judicial Magistrate, First Class at Alibag is hereby transferred to the court of the learned Metropolitan Magistrate, 48th Court at Andheri, Mumbai and is directed to be clubbed with C.C. No.344/P/2003 and decided with the said case.

6. Rule is made absolute accordingly.

(B.H. Marlapalle,J.)